

ARTICLE 14.00
PROVISIONS GOVERNING NON-CONFORMING USES
AND NON-COMPLYING BUILDINGS OR OTHER STRUCTURES

14.01 Statement of Purpose

The districts established in this Ordinance (as set forth in district regulations in Articles 4.00 through 10.00) are designed to guide the future use of land in Gallatin, Tennessee, by encouraging the development of desirable residential, commercial, and industrial areas with appropriate groupings of compatible and related uses and thus promote and protect the public health, safety, and general welfare.

As a necessary corollary, in order to carry out such purposes, non-conforming uses which adversely affect the development of such areas must be subject to certain limitations. The provisions governing non-conforming uses set forth in this Article are therefore established in order to provide a gradual remedy for existing undesirable conditions resulting from such incompatible non-conforming uses, which are detrimental to the achievement of such purposes. While such uses are generally permitted to continue, this Ordinance is designed to restrict further investment in such uses which would make them more permanent establishments in inappropriate locations.

In the case of a few objectionable non-conforming uses which are detrimental to the character of certain districts, a reasonable statutory period of life established for such uses in order to permit the owner to gradually make his plans for the future during a period in which the non-conforming use is allowed to continue, thereby minimizing any loss, while at the same time assuring the public that the districts in which conformity exists will eventually benefit from a more uniform character.

In the case of buildings or other structures not complying with the bulk regulations of this Ordinance, the provisions governing non-complying buildings or other structures set forth in this Article are established in order to permit the appropriate use of such buildings or other structures, but to prevent the creation of additional non-compliance or increase in the degree of non-compliance.

These provisions are thus designed to preserve the character of the districts established in this Ordinance in light of their suitability to particular uses, and thus to promote and protect the public health, safety, and general welfare.

14.02 Provisions Governing Non-conforming Uses

14.02.010 Applicability

The provisions of this section are applicable to all uses and signs which are not permitted within the districts in which they are located. Additionally, uses not meeting the performance standards along with buildings and other structures located within the floodplain are considered within the regulations of non-conforming uses.

14.02.020 Construction or Use Permit Approved Prior to Ordinance Adoption

Nothing contained herein shall require any change in the overall layout, plans, construction, size or designated use of any development, building, structure, or part thereof where official approvals and required building permits have been granted before the enactment of this Ordinance, or any amendment thereto, the construction of which, conforming with such plans, shall have been started prior to the effective date of this Ordinance and completion thereof and not discontinued until completion except for reasons beyond the builder's control.

14.02.030 Continuation of Non-conforming Use

Any non-conforming use which existed lawfully at the time of enactment of this Ordinance and which remains non-conforming, except for conforming to performance standards, or any use which shall become non-conforming upon enactment of this Ordinance, or any subsequent amendments thereto may be continued subject to the provisions.

14.02.031 Change of Non-conforming Use

A non-conforming use cannot be changed to another or different non-conforming use.

14.02.040 Required Conformance to Performance Standards

- A. **Required Conformance of Lawful Uses to Performance Standards** - In all districts a lawful use which does not conform to one or more applicable performance standards, except those pertaining to signs, established in Article 13.00, may be continued for a period of one (1) year from the date of this Ordinance or subsequent amendment. After one (1) year, and six (6) months notice by the Zoning Administrator, it shall conform to all applicable performance standards.
- B. **Required Conformance of Non-conforming Uses to Performance Standards** - In all districts where there is a use which is not a permitted use, and where there are performance standards applicable in the district in which the use would be permitted, but not in the district in which it is located, the use may be continued, but it shall

conform to the performance standards in that district where it is a permitted use after one (1) year and a six (6) month notice by the Zoning Administrator.

14.02.050 Conditional Use

A. Continuation - Whenever the Zoning Ordinance in effect at the time of adoption of this Zoning Ordinance has authorized any use which is not permitted as of right by issuing a variance, exception, or permit to locate in a district, such authorization may be continued subject to:

1. The conditions concerning such uses which were established at the time of approval of said variance, exception, or conditional use (use permitted on appeal) permit.
2. For the time period established in accordance with Section 04.09 of this Ordinance.

1. Change of Use - Any change of use shall be subject to the provisions of Section 14.02.090.
2. Alterations - Any alterations permitted are subject to the provisions of Section 14.02.060.
3. Expansion - No expansion of any conditional use shall be permitted unless and until:
 1. the use is a permitted use or a conditional use permitted by this Ordinance within the district in which the use is located.
 2. where such use is found in conformance with (1) above, such use may be expanded subject to the constraints placed on the use by this Ordinance.

14.02.060 Repairs and Alterations

Nothing in this Article shall prevent the strengthening or restoring to a safe condition of any part of any building or structure declared unsafe by proper authority.

- A. Incidental Alterations - Incidental alterations as defined by this Ordinance, may be made to a building or other structure occupied by a non-conforming use, or in connection with a permitted change of a non-conforming use.
- B. Alterations Other Than Incidental Alterations - No alterations other than incidental alterations shall be made to a building or other structure occupied by a non-conforming use, except when made:

1. In order to comply with requirements of law regarding fire protection, safety of the structure, etc., or
2. In order to conform to the applicable district regulations or performance standards.

14.02.070 Relocation of Building or Structure

No building or structure which does not conform to all of the requirements of the district in which it is located shall be moved in whole or in part to any other locations on the lot unless every portion of such building or structure which is moved and the use thereof is made to conform to all the requirements of this district in which it is located.

14.02.080 Expansion of Non-conforming Use

- A. In Building or Structure Designed or Intended for Non-conforming Use - The non-conforming use or part of a building or structure, all or substantially all of which is designed or intended for a use not permitted in the district in which it is located, may be extended throughout the building or structure in which said use is presently located, but no changes or structural alterations which increase the bulk of the building or structure shall be made unless such changes or structural alterations which increase the bulk of the building or structure and the use thereof conform to all the regulations of the district in which the building or structure is located.
- B. In Building or Structure Designed or Intended for a Permitted Use - The non-conforming use of part of a building or structure, all or substantially all of which building or structure is designed or intended for a use permitted in the district in which it is located, shall not be expanded or extended into any other portion of such building or structure, nor changed to any non-conforming use.
- C. Expansion - The non-conforming use of part of a building structure, all or substantially all of which is designed or intended for a use not permitted in the district in which it is located, may be extended throughout the building or structure in which said use is presently located, but no changes or structural alterations which increase the bulk of the building or structure shall be made unless such changes or structural alterations and the use thereof conform to all the regulations of the district in which the building or structure is located.
- D. Expansion of Commercial and Industrial Uses - Any commercial or industrial use subject to the provisions of this section shall be allowed to continue in operation and to expand provided that no expansion permitted under this section:
 1. shall result in a change of one non-conforming use unless such change results in a use which is less non-conforming than the previous use;

2. shall infringe, or increase the extent of any infringement existing at the time of adoption of this Ordinance, upon any open space required by this Ordinance;
3. shall take place beyond the zone lot(s) on which said use was operating as of the effective date of this Ordinance.

E. Land - The non-conforming use of land, not involving a building or structure, or in connection with which any building or structure thereon is incidental or accessory to the principal use of the land, shall not be expanded beyond the area it occupies.

14.02.090 Change of Non-conforming Use

A. General Provisions - For the purpose of this Article, a change in use is a change to another use either under the same activity type or any other activity type or major class of activity type or major class of activity; however, a change in occupancy or ownership shall not, by itself, constitute a change of use.

A non-conforming use may be changed to any conforming use, and the applicable bulk regulations and accessory off-street parking requirements shall apply to such change of use or to alterations made in order to accommodate such conforming use.

B. Land With Incidental Improvements - In all districts a non-conforming use of land, not involving a building or structure, or in connection with which any building or structure thereon is incidental or accessory to the principal use of the land, shall be changed only to a conforming use.

C. Buildings Designed for Residential Use - In all residential districts, a non-conforming use located in a building designed for residential use may be changed only to a conforming use permitted in the applicable district.

D. Buildings Designed for Non-residential Use - In all residential districts, a non-conforming use located in a building designed for non-residential use may not be changed to a conforming use, or such non-conforming use may not be changed to another non-conforming use.

E. Non-conforming Uses in Commercial and Industrial Uses - In all commercial and industrial districts, a non-conforming use may not be changed to a conforming use or such non-conforming use may not be changed to another non-conforming use.

F. Zone Lot Containing Non-conforming Use - A zone lot containing a non-conforming use shall not be reduced in area except to comply with Section 14.02.060 B.

14.02.100 Damage or Destruction

Except as set forth in Sections 14.03.050 through 14.03.060 C relating to non-conforming signs, if a non-conforming building or structure is damaged or destroyed, the provisions of Sections 14.02.100 A through 14.02.100 D shall apply.

- A. Land With Incidental Improvements - In all districts, when a non-conforming building or other structure or improvements located on "land with incidental improvements" (as defined by this Ordinance) is damaged or destroyed to the extent of twenty-five (25) percent or more of the assessed valuation of all buildings or other structures or other improvements located thereon (as determined from the assessment rolls effective on the date of damage and destruction) such non-conforming use shall be terminated, and the tract of land shall thereafter be used only for a conforming use.
- B. Damage or Destruction of Buildings or Other Structures - In all districts, when any building or other structure, except a building subject to the provisions of Section 14.03.100 C, which is substantially occupied by a non-conforming use, is damaged or destroyed to the extent of fifty (50) percent or more of its total floor area, such non-conforming use shall terminate.
 - 1. Restoration of Damage or Destruction of Buildings or Other Structures - When the extent of damage or destruction is less than fifty (50) percent of the floor area, the non-conforming building or other structure may be restored and the non-conforming use may be continued provided that:
 - (a) A zoning permit pertaining to such restoration is applied for and issued within one (1) year of such damage or Destruction,
 - (b) A certificate of zoning compliance is issued within one (1) year after issuance of the zoning permit, and
 - (c) Such restoration shall not cause a new non-conformance nor increase the degree of non-conformance or non-compliance existing prior to such damage or destruction.

Otherwise the non-conforming use shall terminate.

- C. Building Designed for Residential Use in Residential Districts - In all residential districts, if the floor area occupied or utilized by a non-conforming use within a building designed for residential use is damaged or destroyed by any means to the extent of twenty-five (25) percent or more of the floor area occupied or utilized by such non-conforming use, the non-conforming use shall terminate, and the area shall only be used thereafter for a conforming use. If the extent of such damage or destruction is less than fifty (50) percent of the floor area occupied or utilized by a non-conforming use, the building may be restored and the non-conforming use continued provided that:

1. A zoning permit pertaining to such restoration is applied for and issued within one (1) year of such damage,
2. A certificate of zoning compliance is applied for and issued within one (1) year after the zoning permit is issued, and
3. Such restoration shall not cause a new non-conformance nor increase the degree of non-conformance or non-compliance existing prior to such damage or destruction.

D. Use of Alternate Formula - In any case where the applicant or the Zoning Administrator alleges that the floor is an inappropriate measure of the extent of damage or destruction and elects to substitute reconstruction costs for floor area, an application may be made to the Board of Appeals to determine the extent of such damage or destruction. The Board may grant such applications permitting such building to be restored as provided in Sections 14.02.100 B and 14.02.100. C relating to restoration of damaged or destroyed buildings only if the Board finds that the estimated cost of restoring the damaged or destroyed portion of such building is not greater than fifty (50) percent of the estimated cost of reconstruction of the entire building. In determining reconstruction costs, the cost of land shall be excluded. Cost data used for the purpose of applying the provisions of this section shall be provided by the applicant and if such data is to the satisfaction of said Board, such Board shall permit the restoration.

14.02.110 Discontinuance

When a non-conforming use of land with minor improvements or the active operation of substantially all the non-conforming uses in any building or other structure or tract of land is discontinued for a period of one (1) year, then the land or building or other structure shall thereafter be used only for a conforming use. Intent to resume active operations shall not affect the foregoing provisions.

A. Land With Incidental Improvements - In all residential districts, a non-conforming use of land with incidental improvements shall be terminated one (1) year from the effective date of this Ordinance and six (6) months after notification to the owner by the Zoning Administrator.

14.02.120 Non-conforming Buildings Within Floodplain

A. General Provisions

In all districts or portions thereof which extend into the Floodplain Districts as established by Section 10.03, any building or other structure or use which is not permitted in the floodplain district provisions shall become non-conforming upon the effective date of this Ordinance, or subsequent amendment as applicable.

B. Enlargements of Building Within the Floodplain

A building or other structure which is non-conforming by reason of location within the floodplain shall not be enlarged or expanded but may be altered, or repaired as set forth in Section 14.02.060, or as may be expressly authorized by the Board of Zoning Appeals in order to incorporate floodproofing measures provided that no such alteration will increase the level of the 100-year flood or extend the normal life of such building or structure.

C. Prohibition of Extension of Certain Buildings or Structures

A building or other structure which is non-conforming by reason of location within the floodplain and used for human habitation shall not be extended to accommodate additional occupants.

D. Land With Minor Improvements in Floodplain District

Land with minor improvements which does not comply with the floodplain district regulations, either on the effective date of this Ordinance, or as a result of a subsequent amendment, may be continued for a period of one (1) year after such date and six (6) months notice by the Zoning Administrator, provided that after the expiration of that period, such non-conforming use shall terminate.

14.02.130 Regulations Applying to Non-conforming Signs

Any sign that existed lawfully on the effective date of this Ordinance, or subsequent amendment, and is no longer permitted within districts or other areas designated by this Ordinance, shall be non-conforming and may be continued subject to the provisions of Sections 14.02.130 A through 14.02.130 D.

D. Termination or Discontinuance of Signs

In all districts all non-conforming signs shall be removed within five (5) years, the time to be measured from the effective date of this Ordinance or such later date as the sign becomes non-conforming. Non-conforming signs may be maintained during such period. However, no reconstruction shall be permitted affecting more than fifty (50) percent of the structure except as provided in Section 14.02.100 D.

E. Accessory Signs Relating to Non-conforming Activities

1. Accessory Business Signs in Residential Districts

In all residential districts, any accessory business sign associated with a non-conforming activity may be continued during the lawful life of the activity, but it shall be made to comply with all accessory sign provisions applicable in the MRO

district after five (5) years from the effective date of this Ordinance or subsequent amendment.

2. Residential Signs

In all districts, any residential sign associated with a non-conforming residential activity may be continued during the lawful life of the activity, but it shall be made to comply with all provisions relating to residential signs in residential districts after five (5) years from the date of passage of this Ordinance or subsequent amendment.

3. Signs in Commercial and Industrial Districts

In all commercial and industrial districts, any accessory sign associated with a non-conforming activity may be continued during the lawful life of the activity, but it shall be made to comply with all provisions relating to the district in which it is located after five (5) years from the date of passage of this Ordinance or subsequent amendment.

F. Damage or Destruction of Signs

In all districts, when any non-conforming sign is destroyed or damaged to the extent of fifty (50) percent of its depreciated value at the time of destruction or damage then the sign shall be terminated, except that accessory signs related to non-conforming activities may be continued subject to the applicable provisions of Section 14.02.130 B.

G. Projecting Non-conforming Accessory Business Signs Projecting into a Public Way

When the ownership or operator of a business changes, all projecting non-conforming business accessory signs that project into a public way shall remain unchanged or be removed.

14.03 Non-complying Buildings or Other Structures

14.03.010 General Provisions

The provisions of this chapter shall control buildings and other structures, including signs, which do not meet the bulk or any other provisions applicable in the districts in which they are located except those provisions which pertain to activity or use.

14.03.020 Continuation of Use

The use of a non-complying building or other structure or parcel may be continued, except as otherwise provided by this chapter.

14.03.030 Repairs and Alterations

Repairs, incidental alterations, or structural alterations may be made in non-complying buildings or other structures subject to the provisions of Sections 14.03.040 through 14.03.060 C.

14.03.040 Enlargements or Conversions

A non-complying building or other structure may be altered, provided that the alteration would either create a new non-compliance or increase the degree of non-compliance of a building or other structure or parcel of any portion thereof.

H. Buildings Non-complying as to Lot Area

If a building does not comply with the applicable district regulations on lot area per dwelling unit (lot area of zone lot being smaller than required for the number of dwelling units on such zone lot) such building may be converted (and, in mixed buildings, the residential use may be extended, except when in the floodplain district), provided that the deficiency in the required lot area is not thereby increased (for example, a non-complying building on a zone lot of 2,500 square feet, which before conversion required a lot area of 4,000 square feet and was, therefore, deficient by 1,500 square feet, can be converted into any combination of dwelling units requiring a lot area of no more than 4,000 square feet).

14.03.050 Regulations Applying to Non-complying Signs

I. Termination of Non-complying Advertising Signs

In the districts where advertising signs may be located under the provisions of this Ordinance, any advertising sign which is non-complying by reason of location, excessive display surface area, or any other feature, shall be terminated or made to

comply with the appropriate district regulations within ten (10) years, from the date of the passage of this Ordinance or subsequent amendment.

J. Termination of Non-complying Accessory Business Signs

In commercial and industrial districts, any accessory business sign which is non-complying by reason of location, excessive display surface area, or any other feature, shall be terminated or made to comply with the appropriate district regulations within ten (10) years, from the date of the passage of this Ordinance or subsequent amendment.

14.03.060 Damage or Destruction of Non-complying Uses

K. Permitted Reconstruction

In all districts, when a non-complying building or other structure is damaged by any involuntary means to the extent of fifty (50) percent or more of its total floor area, such building or other structure may be reconstructed only in accordance with the applicable bulk regulations and other provisions of this Ordinance.

L. Use of Alternate Formula

In any case where the applicant or Zoning Administrator alleges that the floor is an inappropriate measure to the extent of damage or destruction, and elects to substitute reconstruction costs for floor area, an application may be made to the Board of Appeals to determine the extent of such damage or destruction. Said Board may grant such applications permitting such a building or other structure to be reconstructed as provided in Section 14.03.060 A only when the Board finds that the ratio which the estimated cost of reconstructing the damaged or destroyed portion of such building or structure is not greater than fifty (50) percent of the estimated cost of reconstructing the entire building or structure.

M. Damage or Destruction of Signs

In all districts, when any non-complying sign is damaged or destroyed to the extent of fifty (50) percent of its depreciated value at the time of destruction or damage then the sign shall be terminated or made to comply with the appropriate district regulations.

ARTICLE 14.00 AMENDMENTS

Section	Ordinance #	Date
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